C. HOW ANNUITIES AFFECT ELIGIBILITY FOR MEDICAL PROGRAMS

WAC 388-561-200 Annuities.

(1) The department determines how annuities affect eligibility for medical programs.

(2) A revocable annuity is considered an available resource.

(3) The income from an irrevocable annuity, meeting the requirements of this section, is considered in determining eligibility and the amount of participation in the total cost of care. The annuity itself is not considered a resource or income.

(4) An annuity established on or after May 1, 2001 will be considered an available resource unless it:

(a) Is irrevocable;

(b) Is paid out in equal monthly amounts within the actuarial life expectancy of the annuitant;

(c) Is issued by an individual, insurer or other body licensed and approved to do business in the jurisdiction in which the annuity is established; and

(d) Names the department as the beneficiary of the remaining funds up to the total of Medicaid funds spent on the client during the client's lifetime. This subsection only applies if the annuity is in the client's name.

(5) An irrevocable annuity established on or after May 1, 2001 that is not scheduled to be paid out in equal monthly amounts, can still be considered an unavailable resource if:

(a) The full pay out is within the actuarial life expectancy of the client; and

(b) The client:

(i) Changes the scheduled pay out into equal monthly payments within the actuarial life expectancy of the annuitant, or

(ii) Requests that the department calculate and budget the payments as equal monthly payments within the actuarial life expectancy of the annuitant. The income from the annuity remains unearned income to the annuitant.

(6) An irrevocable annuity, established prior to May 1, 2001 that is scheduled to pay out beyond the actuarial life expectancy of the annuitant, will be considered a resource transferred without adequate consideration at the time it was purchased. A penalty period of ineligibility, determined according to WAC 388-513-1365, may be imposed equal to the amount of the annuity to be paid out in excess of the annuitant's actuarial life expectancy.

(7) An irrevocable annuity, established on or after May 1, 2001 that is scheduled to pay out beyond the actuarial life expectancy of the annuitant, will be considered a resource transferred without adequate consideration at the time it was purchased. A penalty may be imposed equal to the amount of the annuity to be paid out in excess of the annuitant's actuarial life expectancy. The penalty for a client receiving:

  (a) Long-term care benefits will be a period of ineligibility (see WAC 388-513-1365).

  (b) Other medical benefits will be ineligibility in the month of application.

(8) An irrevocable annuity is considered unearned income when the annuitant is:

  (a) The client;

  (b) The spouse of the client;

  (c) The blind or disabled child of the client; or

  (d) A person designated to use the annuity for the sole benefit of the client, client's spouse, or the blind or disabled child of the client.

(9) An annuity is not considered an available resource when there is a joint owner, co-annuitant or an irrevocable beneficiary who will not agree to allow the annuity to be cashed, **unless** the joint owner or irrevocable beneficiary is the community spouse. In the case of a community spouse, the cash surrender value of the annuity is considered an available resource and counts toward the maximum community spouse resource allowance.

CLARIFYING INFORMATION

Look at the following example and note the differences in scenarios based on terms of the annuity.

EXAMPLE

Joey is 35 years old, married with 2 children. He was in an accident and is now in need of personal care during the day when his wife works. Joey received a settlement on his accident in May 2001 and put the money into an annuity to pay out $15,000 each May for the next 10 years to help the family maintain their living circumstances. Now, in July 2001 the first annual distribution is gone (used up in May on bills) and we have an application for COPES. Here are some possible scenarios:

1. The annuity is revocable. It is an available resource and we count it as such.

2. The annuity is irrevocable. Joey gives us a statement that we can budget the distributions as if they are equal monthly amounts. We count the distribution as $1250/month unearned income.

3. The annuity is irrevocable and Joey said he cannot have the terms changed. He refuses to allow us to budget as if it were equal monthly distributions. We consider that Joey transferred his money into an annuity without adequate consideration and the annuity is an available resource.

   The possibility of transfer of asset penalty for the $15,000 distribution from May must be considered if the resource levels are met. For example, if this was the last year of the annuity and the remaining funds are below the resource level, was the $15,000 received 2 months prior given or traded away without adequate consideration?

4. The annuity names Joey and his brother as joint owners. Joey's brother refuses to allow the annuity to be cashed out. This now becomes an unavailable resource. We still consider the $15,000 distribution as income the month they receive it, a resource if it is still available the next month, and if they gave adequate consideration in their use of the money.

5. The annuity names Joey and his wife as joint owners. Joey's wife states she will not allow the annuity to be cashed out. Since the joint owner is the spouse, the cash surrender value of the annuity is an available resource.

6. The annuity is to pay out yearly over the next 45 years. Joey's life expectancy is 39.52 years per the Annuity Life Expectancy tables in Appendix I. There will be a period of ineligibility if Joey is receiving LTC services. His application will be denied if he is applying for other medical benefits due to the transfer of resources without adequate consideration.

WORKER RESPONSIBILITIES

1. Look at the face page of the annuity to determine:

   a. The type of annuity;

   b. The owner, the annuitant, and the beneficiary, if any;

   c. When and how monies will be paid into the annuity (premiums);

   d. When and how monies will be paid out of the annuity; and

   e. Whether the annuity is revocable or irrevocable.

2. To determine the countable resource value of a revocable annuity:

   a. Verify the current value of the annuity with the company/group that issued the annuity;

   b. Deduct early withdrawal penalties and taxes due; and

   c. Add accrued interest.

3. When a client can withdraw any part of the annuity, or a previously unavailable annuity becomes available, count it as income in the month it becomes available.

4. Use the life expectancy tables in Appendix I to determine whether annuity payments will exceed the actuarial life expectancy of the annuitant. If the payment schedule does exceed the life expectancy, count the uncompensated value of the annuity that exceeds the client's life expectancy as a transfer of resources and establish a period of ineligibility as described in WAC 388-513-1365 or WAC 388-513-1366 for long-term care assistance.

5. Consider income received from an annuity as unearned income.

ACES PROCEDURES

1. Enter annuity information on the RES1 screen:

    a. Enter the appropriate Liquid Resource Type code (see F1);

    b. Enter the amount of resource that is counted and how the amount was verified;

    c. Under Institution Name, identify the annuity; and

    d. In REMARKs behind the RES1 screen, be sure to identify the annuity using the elements from Clarifying Information above.

2. If a transfer of resources has taken place, enter the information in the TRAN screen as follows:

    a. Determine the amount of transfer and enter, using the appropriate resource type code (see F1); or
    b. For a Long-term care client follow WAC 388-513-1365. Penalty periods are displayed on the STAT screen.

3. If payments made to or on behalf of the client are considered income, enter the information on the UNER screen using the correct codes (see F1) and add the REMARKS behind the screen.

Instructions for Using Individual Actuarial Life Expectancy Tables

1. Use the age of the annuitant at the time the annuity was purchased and look in the AGE column of the table for the person's sex.

2. Go across to the Life Expectancy column to determine the number of years the annuitant is expected to live and round up to the next full year.

3. If the term of the annuity exceeds the life expectancy of the annuitant in this table, a period of ineligibility should be imposed on a client due to the transfer of a resource without adequate consideration.

The annuity tables are compiled from information published by the Office of the Actuary of the Social Security Administration as found in the Medicaid Manual for the State of Washington.

APPENDIX I
LIFE EXPECTANCY TABLES

MALES

Age	Expect	Age	Expect	Age	Expect	Age	Expect
0	71.80	30	44.06	60	18.42	90	3.86
1	71.53	31	43.15	61	17.70	91	3.64
2	70.58	32	42.24	62	16.99	92	3.43
3	69.62	33	41.33	63	16.30	93	3.24
4	68.65	34	40.23	64	15.62	94	3.06
5	67.67	35	39.52	65	14.96	95	2.90
6	66.69	36	38.62	66	14.32	96	2.74
7	65.71	37	37.73	67	13.70	97	2.60
8	64.73	38	36.83	68	13.09	98	2.47
9	63.74	39	35.94	69	12.50	99	2.34
10	62.75	40	35.05	70	11.92	100	2.22
11	61.76	41	34.15	71	11.35	101	2.11
12	60.78	42	33.26	72	10.80	102	1.99
13	59.79	43	32.37	73	10.27	103	1.89
14	58.82	44	31.49	74	9.27	104	1.78
15	57.85	45	30.61	75	9.24	105	1.68
16	56.91	46	29.74	76	8.76	106	1.59
17	55.97	47	28.88	77	8.29	107	1.50
18	55.05	48	28.02	78	7.83	108	1.41
19	54.13	49	27.17	79	7.40	109	1.33
20	53.21	50	26.32	80	6.98	110	1.25
21	52.29	51	25.48	81	6.59	111	1.17
22	51.38	52	24.65	82	6.21	112	1.10
23	50.46	53	23.82	83	5.85	113	1.02
24	49.55	54	23.01	84	5.51	114	0.96
25	48.63	55	22.21	85	5.19	115	0.89
26	47.72	56	21.43	86	4.89	116	0.83
27	46.80	57	20.66	87	4.61	117	0.77
28	45.88	58	19.90	88	4.34	118	0.71
29	44.97	59	19.15	89	4.09	119	0.66

FEMALES

Age	Expect	Age	Expect	Age	Expect	Age	Expect
0	78.79	30	50.15	60	22.86	90	4.71
1	78.42	31	49.19	61	22.06	91	4.40
2	77.48	32	48.23	62	21.27	92	4.11
3	76.51	33	47.27	63	20.49	93	3.84
4	75.54	34	46.31	64	19.72	94	3.59
5	74.56	35	45.35	65	18.96	95	3.36
6	73.57	36	44.40	66	18.21	96	3.16
7	72.59	37	43.45	67	17.48	97	2.97
8	71.60	38	42.50	68	16.76	98	2.80
9	70.61	39	41.55	69	16.04	99	2.64
10	69.62	40	40.61	70	15.35	100	2.48
11	68.63	41	39.66	71	14.66	101	2.34
12	67.64	42	38.7	72	13.99	102	2.20
13	66.65	43	37.78	73	13.33	103	2.06
14	65.67	44	36.85	74	12.68	104	1.93
15	64.68	45	35.92	75	12.05	105	1.81
16	63.71	46	35.00	76	11.43	106	1.69
17	62.74	47	34.08	77	10.83	107	1.58
18	61.77	48	33.17	78	10.24	108	1.48
19	60.80	49	32.27	79	9.67	109	1.38
20	59.83	50	31.37	80	9.11	110	1.28
21	58.86	51	30.48	81	8.58	111	1.19
22	57.89	52	29.60	82	8.06	112	1.10
23	56.92	53	28.72	83	7.56	113	1.02
24	55.95	54	27.86	84	7.08	114	0.96
25	54.98	55	27.00	85	6.63	115	0.89
26	54.02	56	26.15	86	6.20	116	0.83
27	53.05	57	25.31	87	5.79	117	0.77
28	52.08	58	24.48	88	5.41	118	0.71
29	51.12	59	23.67	89	5.05	119	0.66